

IMPLEMENTATION COMMITTEE MEETING SUMMARY
9/8/94



ES/CR/FY-93 UCRRIC

Mail Stop 65115

Memorandum

To: Implementation Committee
Management Committee, Consultants, and Interested Parties
Meeting Attendees

From: Director, Colorado River Recovery Implementation Program

Subject: Draft September 8, 1994, Recovery Implementation Committee Meeting
Summary

Attached are the action and assignment summary and the general meeting summary from the recent Implementation Committee meeting. Please review these documents and contact Angela Kantola (ext. 221) or myself (ext. 223) if you think any changes are necessary. If I do not receive your comments by October 17, 1994, I will finalize and distribute the summary to all parties interested in the Recovery Program.

Attachments

bcc: ES/CR file, circ rf, rf

CR/AKantola:kjw:9/26/93

AK/090893.RIC

- Final Summary -

Actions and Assignments

Recovery Implementation Committee Meeting--September 8, 1994

COMMITTEE ACTIONS:

1. Approved the revised RIPRAP with Colorado's clarification regarding the Ruedi interim agreement and with the funding table removed.

2. Approved the revised Organization, Mission, and Staffing Plan.

3. Approved the FY 95 Work Plan.

4. Approved the interest group participation recommendations with the understanding that John Hamill and his staff will implement what they can and may ask participants for assistance on appropriate specific items. Also, John will evaluate the usefulness of these tasks as they are implemented to determine if they should be continued.

5. Signed resolutions acknowledging the contributions of Bob Jacobsen and Bob Green to the Recovery Program.

ASSIGNMENTS:

1. Program participants will provide comments on the concepts in Cliff Barrett's legislation status to John Hamill by September 23. John will send out copies of these, then will schedule a conference call or meeting of an ad hoc group of the Implementation Committee as soon after that as possible. Implementation Committee members will tell John Hamill today who will represent them on the ad hoc group. CREDA plans to continue their process of developing the draft legislation and will circulate it to the ad hoc group as soon as the draft is available.

2. Charlie Calhoun will collect Program participants' responses to Reclamation's cost-sharing memo and forward those to Washington, D.C.

3. The Management Committee will reach consensus on long-term funding within the next 3 months so the funding table can be put back in the RIPRAP.

4. Once the RIPRAP is finalized, the Service will publish a notice of availability in the Federal Register, and will provide a copy of the notice to the Management Committee when it is published.

5. The Bureau of Reclamation (Reclamation) will provide the Service explanations of their prioritization of projects to be reviewed to determine if reinitiation of consultation is required (based on designation of critical habitat). They'll also provide Barry Saunders and John Shields a list of those projects in Utah.

6. The Service will keep Program participants informed of legal actions (lawsuits, 60-day notices of intent to sue, etc.) filed against the Service that are related to the Recovery Program.

- Draft Summary -

Colorado River Recovery Implementation Committee

September 8, 1994 Meeting

Convene: 9 a.m.

Attendees: (Attachment 1)

Major Topics Discussed/Decided:

1. Introductions Nancy Kaufman from the Service's Washington Office was introduced. She will be the Recovery Program's Secretarial liaison from the Department of the Interior.

2. Review/Modify Agenda: The agenda was modified as it appears below.

3. Approval of January 1994 Implementation Committee Meeting Summary: The Committee approved the summary.

4. Recovery Program Update: John Hamill gave an update on Program activities and accomplishments (see Attachment 2).

5. Recovery Program Long-Term Funding

a. Legislative Initiatives - Cliff Barrett gave a report on the legislative initiative that the Colorado River Energy Distributors Association (CREDA) has been working on with George Miller's staff (Attachment 3). The three parts of this initiative are: 1) create a fund for Recovery Program and other Upper Basin ecosystem concerns (with the Recovery Program having top priority) (this would involve cost sharing, currently proposed as power revenues 50%, Federal annual appropriation 25%, and water users and States 25%); 2) elimination of Colorado River Storage Project (CRSP) revenue apportionment; and 3) a requirement for increased power customer oversight of Reclamation and Western Area Power Administration (Western) spending. The contribution of power revenues and the water users and States share would be contingent on the Federal appropriation. The funds would be required to be spent as they are collected, and the funding mechanism

would remain in place for 20 years. Cliff said they would like to introduce the legislation in Congress early next year.

Jeff Fassett asked how water users might contribute, and Cliff replied that this probably would involve Federal project water users (not just limited to CRSP projects). State contributions might involve non-Federal project water users and perhaps depletion payments. Barry Saunders asked about the basis for the cost-sharing percentages and Cliff replied it originated from the amount CREDA is willing to contribute from power revenues (the savings in power revenues when apportionment is eliminated). CREDA believes substantial non-Federal cost-sharing is important. Tom Pitts asked if the original Recovery Program agreement was considered when the cost-sharing proposal was developed. Cliff said it wasn't considered, but admitted they haven't yet addressed how to factor in depletion payments. John Hamill asked what the role of the Implementation Committee would be in the legislation drafting process. Cliff replied that they're looking for the Committee's input, especially from the States and Western.

Jim Lochhead said Colorado also is interested in legislation and that they are concerned about the process for developing the initiative. Funding is critical to program success, and the apportionment formula is a viable source of revenues to discuss. He thinks Program authorization (for capital projects) can be resolved in the same legislation. Although he has some concerns with Cliff's proposals, Jim said he believes the important thing today is Implementation Committee agreement on moving forward to discuss development of this kind of legislation.

Barry Saunders expressed concern that we may be delegating the responsibility to negotiate with Miller's committee to CREDA. Cliff said that CREDA does not propose to be the sole negotiator, and that they will develop draft legislation (within the next 3-4 weeks), then the Implementation Committee can do what it wants with it. Peter Evans suggested forming an ad hoc group of the Implementation Committee to work on this issue (John Hamill will facilitate this group). Barry said he has some concern about being asked to react to legislation that's already been negotiated with Miller's staff for the past 4 months or so. Jim Lochhead said he would like to have input into the initial draft that's produced. Tom Pitts suggested that the Committee limit the scope of its discussions to Recovery Program funding issues, and not the entire scope of the proposal. The

Committee agreed with this approach. The Committee agreed to provide comments on the concepts in the status report to John Hamill by September 23. John will send out copies of these, then will schedule a conference call or meeting of the ad hoc group as soon after that as possible. Implementation Committee members will tell John Hamill today who will represent them on the ad hoc group. Cliff said CREDA will continue their process of developing the draft legislation and will circulate to the ad hoc group as soon as the draft is available.

b. Cost-Sharing Proposal - Austin Burke, (Director, Operations, Reclamation, Washington, D.C.) discussed that Reclamation's budget constraints resulting from limited discretionary spending under the Deficit Reduction Act and declining Department of Interior and Reclamation funding. Reclamation once assumed that declining construction would free-up funding for activities like those in the Recovery Program, but that hasn't happened, and they also have increasing commitments under the Omnibus Water Bill. Austin stated that priority Interior programs are receiving some increases as other parts of Interior's budget are falling faster than the overall decrease. The budget cuts are a necessity and will have the added benefit of providing more well-thought-out programs. Thus, Reclamation's FY 96 budget is very tight so they have adopted a policy of seeking funding assistance from their partners in many of their programs. Reclamation's FY 96 contribution to the Recovery Program will not be contingent upon receipt of matching funds. Rather, Reclamation will reduce its contribution based on the expectation that other non-Federal funds will be used to make up the difference. Austin Burke indicated that Reclamation was not at liberty to disclose information about specific budget proposals for FY 96. Nancy Kaufman asked if the 1988 agreement contained a cost-sharing formula. John Hamill replied that it laid out the existing arrangements. Nancy suggested that in light of the Secretary of the Interior's support for the Recovery Program, he might be willing to help with this problem. Jim Lochhead said Colorado is very disappointed in Reclamation's position and they are very concerned about adding new uncertainty about Reclamation funding for the Recovery Program. If current cost-sharing from Reclamation doesn't remain in place, we can't pursue legislation for all the needed capital funding. Tom Pitts said Reclamation's position will create a confrontation in Congress over this budget item. Further, not knowing the capital projects funding situation for FY 96 until February 1995 is not workable for the Recovery Program; Reclamation should have informed the Recovery Program long before now if they were going to propose a funding change. Tom said that it doesn't appear that the cost-sharing already in the Recovery Program in the form of power revenues, depletion charges, and other contributions is being considered. John Hamill agreed and suggested Reclamation's position is setting up a confrontation that will not come to a head until February 1995. Congressional committees generally begin their work on budgets by throwing out items where there is disagreement. Peter

Evans expressed concern about the Recovery Program's ability to continue to make sufficient progress if capital projects aren't implemented on schedule. Robert Wigington said he's not sure Program participants have agreed on capital funding needs, and noted that flow protection is a very major part of sufficient progress, and much of it is not tied to capital projects. Clayton Palmer asked Austin if the cost-share could come from Federal sources other than Reclamation and Austin said they're looking for non-Federal sources. Austin suggested that the cost-sharing CREDA is proposing is a good concept headed in the right direction. Charlie Calhoun will collect Program participants' responses to Reclamation's cost-sharing memo and forward those to Washington, D.C.

6. Recovery Program Recovery Action Plan Updates to Address Critical Habitat: John Hamill outlined the process by which the recommended changes were developed and said that the Management Committee reached consensus on the changes at their last meeting. Dan Luecke said he did not object to the changes, but noted that the environmental groups don't believe the changes are necessary to meet critical habitat requirements. Further, they are somewhat concerned about making changes to the RIPRAP outside the normal annual schedule. John Hamill said that when Program participants approved the RIPRAP, they agreed to make these changes as soon as critical habitat was designated. However, John said he does consider the timing of these modifications to be an exception. Peter Evans said Colorado had no objections to the revisions either, but Colorado would like to add a clarification on page 18 or in the table that the interim agreement on Ruedi will be between the Service, Reclamation, and Colorado. The Implementation Committee agreed. Dan Luecke expressed concern that the budget in the RIPRAP has some figures that are inconsistent with the 95 Work Plan and some that haven't yet been agreed to. John Hamill recommended approving the RIPRAP without that table, with the understanding that the Management Committee will reach consensus on long-term funding within the next 3 months so the table can then be put back in the RIPRAP. Peter Evans expressed concern about Program participants' ability to ever come to final closure on long-term funding. The Implementation Committee agreed the table should be taken out and approved the RIPRAP with Colorado's clarification. John Hamill said once the RIPRAP is finalized, the Service will publish a notice of availability in the Federal Register. John Shields asked that the Management Committee be provided a copy of the notice when it is published and John Hamill agreed.

7. Recovery Program Operations and Effectiveness:

a. Organization and Staffing Plan - John Hamill outlined the revisions to the Organization and Mission document (now the proposed Organization, Mission, and Staffing Plan) to help improve operation and effectiveness of the growing Recovery Program. Bob Jacobsen raised the issue of the budget analyst requested for John Hamill's office but not approved by the Management Committee for FY 95. Jake said the Regional Office budget staff is down to two people, and they cannot do a credible job of tracking the Recovery Program budget, thus, he recommends the Recovery Program fund the budget analyst position if funding can be found. Charles Calhoun asked if there would be a concomitant reduction in the Service's administrative assessment, and Bob said he assumed there would be if the Regional Office experiences more staff cuts. Chris Karas said she is concerned about additional administrative costs, costs of the Program Director's office move, and so forth, and questioned the appropriateness of the Service shifting these costs to the Program because of their own funding shortages. Clayton clarified that the Management Committee wasn't convinced that the budget analyst would be a full-time position. Peter Evans agreed and asked if the Recovery Program could pay for more of Reclamation's 1/3-time budget analyst (who will be tracking capital projects) and accomplish some of the Recovery Program accounting that way. Carol DeAngelis said that wouldn't be possible because the rest of that person's time will be spent on budget responsibilities for Reclamation's Grand Junction and Durango offices. Chris Karas proposed reconsidering the need for a budget analyst in the Program Director's office next year. Chris expressed concern about the impact this would have on available Program funding and commented that it appears the Service is attempting to shift responsibility for their budget difficulties onto the Recovery Program.

Jeff Fassett asked what John Hamill means when he said the staffing plan will be partially implemented. John explained that a junior-level biologist position he had proposed was not approved, thus his office will not have staff to provide the same level of administrative support to the technical committees that they provide to the Implementation and Management committees.

Dan Luecke said he strongly supports independent peer review, but cautioned the Program against letting it turn toward over-directing, or "locking out" the independent proposal process (and thus resulting in flawed research).

The Implementation Committee approved the revised Organization, Mission, and Staffing Plan. Reclamation approved the revised plan with some reservations, and noted that funding for the coordinator positions which are not strictly dedicated to and programmed for within the capital projects budget will be funded out of base funds in FY 96 and beyond. It would only be fair to inform the individuals hired that the funding for these positions is subject to the annual budget approval process, and that Reclamation would not be able to approve a budget which did not provide for collection of all the data needed to allow the Service to complete the Flaming Gorge and Aspinall biological opinions on schedule.

b. Other - John Hamill said the Management Committee is continuing to discuss meeting management, electronic communications, and similar items to further improve Recovery Program effectiveness.

8. FY 95 Work Plan Approval:

John Hamill outlined the issues of: 1) the additional \$10,000 administrative assessment for his office, bringing that total to \$45,000; and 2) providing one-time funding for Uintah County to conduct additional mosquito abatement needed due to flooding from Flaming Gorge flow releases. To achieve a balanced budget, John and Angela Kantola made the following changes since the last Management Committee meeting: 1) cut funding in the Service's program management scope of work for peer review from \$50,000 to \$25,000; 2) cut funding for freelance new releases from \$10,000 to \$5,000; and 3) determined that ~\$40,000 will be carried over from FY 94 due to funding the vacated propagation coordinator position with Section 7 funds.

Tom Pitts asked if the Central Utah Water Conservancy District had agreed to fund the Duchesne River flow recommendations work in FY 95 and Barry Saunders said he hadn't

gotten a final answer yet, but he thinks they will be cooperative.

Barry Saunders asked why the costs of moving the Program Director's office out of the Regional Office must be borne by the Recovery Program. John Hamill said that the Service is moving operational units out of the Regional Office, the Program Director's staff is outgrowing their limited space, and the Service has no discretionary funding to absorb the moving costs. Nancy Kaufman said that Regional offices will probably be down-sized by 50%, so it's best for programs like the Recovery Program to be moved to the field where they are clearly understood to be operational so that they will not suffer these kinds of cuts.

Jeff Fassett asked if the Recovery Program had purchased any water since its inception. John Hamill replied that the Program leased 2,000 af from in 1991 and 1992 and a price has been negotiated for a continuing 25-year lease. Peter Evans noted that Colorado views outright purchase of agricultural water rights as a last resort, preferring to first pursue options of junior instream flow appropriations and reservoir reoperation.

The Implementation Committee approved the work plan.

9. Public Outreach Activities:

a. Review of Information and Education Program - Connie Young outlined her review of the Information and Education program and its accomplishments over the past 5 years (Attachment 4). Tom Pitts said that another significant recommendation not noted in the summary is the recommendation that every major recovery initiative or effort have an information and education aspect. Cliff Barrett suggested it might be a good idea for the information and education program to start educating people about pending cost-sharing (such as will be proposed in the legislation CREDA is drafting with George Miller's staff).

b. Public Attitudes about the Endangered Fish - Connie Young reported on the recent public attitudes survey on the endangered fish conducted by Colorado State University's Human Dimensions Study Group. Four publics within the Upper Colorado River Basin in Colorado and Utah were surveyed: elected officials, anglers, environmental organization members, and the general public. Findings included:

- o When asked to describe their attitude about preserving endangered fish, 59% said positive, 25% said neutral, and 16% said negative.

- o 66% of respondents said they support government efforts to save endangered fish, 13% were neutral, and 21% opposed.

- o 81% agreed recovering endangered fish is as important as recovering endangered birds and mammals.

Connie said a draft of the survey report is due at the end of September, and they hope to finalize it by October 15. Some meeting attendees questioned the validity of the overwhelmingly positive support shown by the survey, saying they believe people responding to phone surveys aren't really considering what recovery may cost them personally. Other meeting attendees endorsed the survey's validity, noting that "cost questions" were included and support for recovery was still positive. Jeff Fassett expressed concern about Wyoming not being included (Wyoming was excluded because funding was limited and sample sizes would be difficult to obtain.) Clayton suggested the Information and Education Committee review the survey and determine if any follow-up is required (such as surveying Wyoming).

c. Interest Group Participation in the Recovery Program - John Hamill reviewed the recommendations in Attachment 5, which were developed on the basis of the Management Committee's investigation of other entities' interest in the Recovery Program and how they might be involved the Program. John said he has reservations about some of the recommendations (both their utility and the ability of his office to implement them), however, he is willing to try them for several months and see how they work. Considerable discussion ensued regarding the potential workload required to implement the recommendations and their ultimate value. Tod Smith said the Ute Tribe (as both a government and as a major water user) has interest in the Recovery Program and the Program needs to make sure they are aware of actions that will affect them well in advance of when the actions will take place.

The Implementation Committee approved the recommendations with the understanding that John Hamill and his staff will implement what they can and may ask participants for assistance on appropriate specific items. Also, John will evaluate the usefulness of these tasks as they are implemented to determine if they should be continued.

10. Section 7 Consultation Update:

a. Update on Consultation Activities - Dale Hoffman distributed an updated table of biological opinions (Attachment 6). John Shields asked when Program participants would begin receiving the quarterly summary of small depletions and Dale replied the first report from the field offices is due in October 1994 and quarterly thereafter.

b. Reinitiation of Consultation to Address Critical Habitat - Dale Hoffman said the Service sent a letter to every Federal Agency they consult with letting the agencies know that critical habitat had been designated for the endangered fish and informing them that they need to review all of their projects to determine if reinitiation of consultation is needed. The Service met with Reclamation to discuss this in May. Reclamation's Loveland office will reinitiate consultation on the Ruedi Round II water sales and the Service expects to be able to complete that consultation within the requisite 90 days.

Reclamation plans to delay formal consultation on the Colorado-Big Thompson project after the coordinated reservoir operations study is completed in 1997. Chris Karas said Reclamation is prioritizing their other projects for review to determine if reinitiation is required. Dale asked that Reclamation also provide explanations of their prioritizations. Barry Saunders and John Shields asked to receive a list of the Utah projects.

c. Coordination between the Recovery Program and Section 7 Consultation Activities - Peter Evans outlined concerns about Service interpretation and implementation the Section 7 Agreement. The Management Committee will meet with the Service on October 4 to try to resolve these and related concerns. Tom Pitts described the concern that Recovery Program participants need to be kept better informed of upcoming consultations. Bob Jacobsen agreed the Service would keep the Management Committee informed.

11. Resolutions for Bob Jacobsen and Bob Green: The Committee presented resolutions recognizing the contributions of these outgoing Program participants.

12. Other Items and Next Meeting: Russ Bovaird asked if Program participants could be kept informed of legal actions (lawsuits, 60-day notices of intent to sue, etc.) filed against the Service that relate to the Recovery Program. Larry Shanks said the Service would do that.

The next regular meeting was tentatively set for March 7, 1995 in Salt Lake City, Utah.

Adjourn: 4:00 p.m.

Attendees

Recovery Implementation Committee Meeting

September 8, 1994

IMPLEMENTATION COMMITTEE MEMBERS:

Bob Jacobsen for Ralph Morgenweck, U.S. Fish and Wildlife Service (Chairman)

Charles Calhoun, U.S. Bureau of Reclamation

Jim Lochhead and Peter Evans for Jim Lochhead, Colorado Department of Natural Resources

David Sabo, Western Area Power Administration

Dan Luecke, Environmental Defense Fund

Tom Pitts, Upper Basin Water Users

Barry Saunders for Ted Stewart, Utah Department of Natural Resources

Jeff Fassett, State of Wyoming

Nancy Kaufman, Secretary of the Interior's Liaison

Cliff Barrett, Colorado River Energy Distributors Association (nonvoting)

John Hamill, U.S. Fish and Wildlife Service (Program Director) (nonvoting)

OTHERS:

Austin Burke, U.S. Bureau of Reclamation

Carol DeAngelis, U.S. Bureau of Reclamation

Daries "Chuck" Lile, Colorado Water Conservation Board

Russ Bovaird, Colorado River Energy Distributors Association

Angela Kantola, U.S. Fish and Wildlife Service, Recovery Program

Larry Shanks, U.S. Fish and Wildlife Service

Dale Hoffman, U.S. Fish and Wildlife Service

Margot Zallen, Department of Interior Solicitor's Office

Chris Karas, U.S. Bureau of Reclamation

Sue Uppendahl, Colorado Water Conservation Board

John Shields, Wyoming State Engineer's Office

Clayton Palmer, Western Area Power Administration

Robert Wigington, The Nature Conservancy

John Bigham, Northern Colorado Water Conservancy District

Connie Young, U.S. Fish and Wildlife Service Recovery Program

Bob Green, U.S. Fish and Wildlife Service

Heidi Sherk, The Nature Conservancy

Kathy Kanda, Colorado Department of Natural Resources

Doug Robotham, Colorado Department of Natural Resources

Tod Smith, Attorney for Ute Indian Tribe, Uintah & Ouray Reservation

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